



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 03902-99
22 July 1999

SSGT [REDACTED] USMC
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear Staff Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 July 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 10 June 1999, a copy of which is attached, and your letter of 1 July 1999.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. The statement you provided from a chief warrant officer (CWO)-3, dated 27 October 1998, did not persuade the Board that a CWO-2, rather than the captain who acted as your reporting senior on the contested fitness report, was your actual reporting senior when the captain wrote the report. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

3902-44
IN REPLY REFER TO:

1610
MMER/PERB
JUN 10 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED] USMC

Ref: (a) SSgt. [REDACTED] DD Form 149 of 8 Apr 99
(b) MCO P1610.7D w/Ch 1

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 8 June 1999 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 960603 to 960724 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner cites several provisions of reference (b) in an attempt to establish an argument that the Reporting Senior did not consider the guidelines of that directive when he prepared the fitness report. To support his appeal, the petitioner furnishes a statement from [REDACTED].

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Notwithstanding the letter from [REDACTED], there is absolutely no showing that [REDACTED] did not take into full consideration, the guidelines and tenets of reference (b) when he evaluated and recorded the petitioner's performance for the two months covered by the fitness report at issue. That the petitioner and [REDACTED] believe that certain marks were the result of a single incident is not supported by any evidence whatsoever.

b. Nothing within the report, to include the narrative comments, depicts substandard or adverse performance. All Section B markings are at least "above average", with an overwhelming majority of them "outstanding." Consequently, mandatory corresponding Section C comments were not required. Additionally, no where in Section C does the Reporting Senior either discuss or relate the alleged incident described in reference (a).

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SERGEANT R., USMC

c. To justify the deletion or amendment of a fitness report, evidence of probable error or injustice should be produced. Such is simply not the situation in this case.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Staff Sergeant official military record.

5. The case is forwarded for final action.

Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps